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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/731,300

12/08/2003

Jesse R. Miller

14140US02

3626

7590

08/11/2005

Michael B. Harlin  
McAndrews, Held & Malloy, Ltd.  
34th Floor  
500 West Madison Street  
Chicago, IL 60661

EXAMINER

CORBETT, JOHN M

ART UNIT

PAPER NUMBER

2882

DATE MAILED: 08/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/731,300

Applicant(s)

MILLER ET AL.

Examiner

John M. Corbett

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12/08/2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Specification***

1. The disclosure is objected to because of the following informalities:

Page 6, line 9, the phrase "pieces cold be" is incomprehensible. Examiner suggests that the phrase, "pieces could be", to be used as an alternative.

The applicant uses two different descriptions for the reference character 10. On page 2, line 11, the applicant describes reference character 10 in figure 1 as "a plate". On page 3, line 11, the applicant describes reference character 10 in figure 1 as "a sample holder". Consistent terminology should be used throughout the specification.

Appropriate correction is required.

### ***Drawings***

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description:

There are several instances where reference characters in the specification are not indicated in the drawings. Reference character 10, "plate", as disclosed on page 2, line 11, is not shown in figure 1. Reference character 20, "frame", as disclosed on page 2, line 13, is not shown in figure 2. Reference character 22, "sample holders", as disclosed on page 2, line 14, is not shown in figure 2. Reference character 10, "sample holder", as disclosed on page 3, line 11, is not shown in figure 1. Reference character 12, "planes", as disclosed on page 3, line 12, is not shown in figure 1. Reference

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character 14, "wings", as disclosed on page 8, line 26, is not shown in figure 1.

Reference character 16, "holes", as disclosed on page 8, line 26, is not shown in figure

1. Reference character 22, "square cuts", as disclosed on page 8, line 29, is not shown

in figure 2. Reference character 24, "holes", as disclosed on page 8, line 31, is not

shown in figure 2. Reference character 18, "holes", as disclosed on page 9, line 1, is

not shown in figure 1.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. The subject matter of this application admits of illustration by a drawing to facilitate understanding of the invention. Applicant is required to furnish a drawing under 37 CFR 1.81(c). No new matter may be introduced in the required drawing. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d).

The apparatus disclosed on page 9, example 2, requires illustration to be clearly understood.

4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the curved surface of claim 2 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1 and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Hodges et al. (4,120,584).

With respect to claim 1, Hodges et al. teaches a sample holder with a plurality of surfaces oriented at nonzero angles relative to one another. (See fig. 3)

With respect to claim 4, Hodges et al. further teaches an x-ray diffraction analysis method of disposing samples on the sample holder and analyzing the samples. (See Col. 1 line 10-19)

6. Claims 2 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Mack (3,148,275).

With respect to claim 2, Mack teaches a sample holder with a curved surface suitable for holding samples. (See Fig. 2 and 3 and Col. 2 line 50-62)

With respect to claim 5, Mack further teaches an x-ray diffraction analysis method (See Fig. 1 and Col. 2 lines 21-44) of disposing samples on the sample holder (Col. 2 line 11-14) and analyzing the samples.

7. Claims 3 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Schipper (6,111,930).

With respect to claim 3, Schipper teaches a sample holder with a plurality of removable individual sample holders. (See Fig. 1, Col. 2 line 45-49 and line 58-63)

With respect to claim 6, Schipper further teaches an x-ray diffraction analysis method (See Col. 1 line 10-16) of disposing samples on the sample holder and analyzing the samples. (See Col. 4 line 22 – Col. 5 line 7)

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John M. Corbett whose telephone number is (571) 272-8284. The examiner can normally be reached on M-F 8 AM - 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward J. Glick can be reached on (571) 272-2490. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JMC 08/08/2005



EDWARD J. GLICK  
SUPERVISORY PATENT EXAMINER